

LEASE AGREEMENT

BETWEEN

BOYER IDAHO FALLS ASSOCIATES, LTD.

AND

EG&G IDAHO, INC.

FOR

OFFICE SPACE

IN

IDAHO FALLS, ID

## CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
	INTRODUCTION AND RECITALS .....	1
1.	DESCRIPTION OF PREMISES .....	1
2.	TITLE .....	2
3.	APPLICABLE CODES AND ORDINANCES .....	2
4.	TERM OF LEASE AND EXTENSIONS .....	3
5.	RENTAL PAYMENTS .....	3
6.	AVAILABILITY OF FUNDS .....	5
7.	TERMINATION FOR CONVENIENCE.....	5
8.	PERFORMANCE OF TERMS .....	6
9.	TAXES, UTILITIES AND BUILDING SERVICES.....	6
10.	INSPECTION AND CONDITION REPORT .....	7
11.	WARRANTY AS TO MECHANICAL EQUIPMENT AND UTILITIES .....	7
12.	ADMINISTRATION .....	7
13.	NOTICES .....	8
14.	INSURANCE .....	9
15.	ASSIGNMENT AND/OR SUBLEASING .....	9
16.	MAINTENANCE OF PREMISES .....	10
17.	DESTRUCTION OF PREMISES .....	10
18.	RELEASES BY LESSOR .....	11
19.	ALTERATIONS .....	12
20.	CONVICT LABOR .....	13
21.	COVENANT AGAINST CONTINGENT FEES .....	13
22.	OFFICIALS NOT TO BENEFIT .....	13
23.	ASSIGNMENT OF CLAIMS .....	13

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
24.	EQUAL OPPORTUNITY .....	14
25.	EXAMINATION OF RECORDS BY THE COMPTROLLER GENERAL .....	16
26.	LESSOR'S SUCCESSORS .....	17
27.	DISPUTES .....	17
28.	DEFINITIONS .....	18
29.	ARTICLES INCORPORATED BY REFERENCE .....	19
30.	HAZARDOUS SUBSTANCE CERTIFICATION .....	20
31.	CONDEMNATION.....	20
32.	LESSOR'S FINANCING.....	21
33.	DEFAULT.....	22
34.	EXPIRATION OR TERMINATION.....	24
35.	ESTOPPEL CERTIFICATE.....	24
36.	FORCE MAJEURE.....	25
37.	OCCURRENCE NOTIFICATION AND REPORTING BY LESSOR .....	25
	SIGNATURES .....	26
	EXHIBIT A..LESSOR'S PROPOSAL AND EG&G IDAHO SPECIFICATION A-ECS-40464	
	EXHIBIT B..TERMINATION SCHEDULE	
	EXHIBIT C..ESTOPPEL CERTIFICATE	

LEASE AGREEMENT NO. C90-132768  
BETWEEN  
BOYER IDAHO FALLS ASSOCIATES, LTD.  
AND  
EG&G IDAHO, INC.  
FOR  
OFFICE SPACE IN IDAHO FALLS, ID

THIS LEASE (this "Lease"), entered into as of the 31st day of July, 1991 by and between BOYER IDAHO FALLS ASSOCIATES, LTD., a Utah limited partnership, whose business address is 127 South 500 East, Suite 310, Salt Lake City, Utah 84102 (hereinafter called the "Lessor"), and EG&G IDAHO, INC. (hereinafter called the "Lessee"), an Idaho corporation with operating offices in Idaho Falls, Idaho, acting under its Contract No. DE-AC07-76ID01570 with the United States of America, represented by the United States Department of Energy (called "DOE" or the "Government");

W I T N E S S E T H     T H A T

The parties hereto, for the considerations hereinafter set forth, covenant and agree as follows:

ARTICLE 1 - DESCRIPTION OF PREMISES

The premises (the "premises") which are the subject of this Lease consist of: the real property, together with all improvements to be constructed on such real property pursuant to this Lease, located in Idaho Falls, Bonneville County, State of Idaho, and more particularly described as follows:

Beginning at a point that is N. 0° 05'29" E. 90.00 feet along the section line and N. 89° 54'18" W. 280.78 feet from the East 1/4 corner of Section 12, Township 2 North, Range 37 East of the Boise Meridian; running thence N. 89° 54'18" W. 703.92 feet; thence S. 0° 05'29" W. 90.00 feet; thence N. 89° 54'10" W. 336.36 feet; thence N.

0° 05'29"E. 797.00 feet; thence S. 89° 54'18" E. 954 feet more or less to the West line of Fremont Avenue; thence South and Southwesterly along the West line of said Fremont Avenue to the POINT OF BEGINNING.

The Lessor leases the premises, a 240,653 ft<sup>2</sup> gross interior (which excludes three penthouses) office building, to the Lessee for the Lease term in accordance with the provisions set forth in this Lease. The obligations of the Lessor to prepare the premises for occupancy are described in the attached Exhibit A, incorporated in this Lease by reference. The Lessor shall perform or have such work performed promptly, diligently and in a first-class and workmanlike manner. On occupancy of the premises by Lessee, all of the obligations of the Lessor set forth in the attached Exhibit A, Proposal and EG&G Idaho, Inc. Specification No. A-ECS-40464, shall be deemed to be completed satisfactorily, except for such items set forth in a "punch list" prepared by the Lessor and the Lessee pursuant to a walk through of the premises at the time of occupancy and corrections made within thirty (30) days after the Commencement Date.

#### ARTICLE 2 - TITLE

The Lessor warrants it has title to the premises, or sufficient interest and rights in the premises to guarantee the Lease with no interference to the Lessee's rights of possession under the Lease. Should the Lessee suffer any damages or expenses as the result of any defect in the Lessor's title or rights and interests in the premises, the Lessor shall reimburse the Lessee for all such damages or expenses.

#### ARTICLE 3 - APPLICABLE LAWS, CODES AND ORDINANCES

The Lessor, as part of the Lease consideration, agrees to comply with all laws, codes, ordinances, rules, regulations and requirements of all federal, state and municipal governments and their appropriate departments, commission, boards and officials applicable to the ownership and establishment of the premises and at its own expense, to obtain all necessary permits and related items. The Lessee agrees to comply with all laws, codes, ordinances, rules, regulations and

requirements of all federal, state and municipal governments and their appropriate departments, commissions, boards and officials applicable to its tenancy and use of the said premises.

#### ARTICLE 4 - TERM OF LEASE AND EXTENSION

The term of the Lease shall be for ten (10) years, beginning on the Commencement Date and ending at midnight ten (10) years after the Commencement Date; provided that, this Lease may, at the option of the Lessee or the Government, be renewed for a period not to exceed three (3) renewal terms of five (5) years each at the Lease rate specified in Article 5 and under the terms and conditions specified herein. Notice must be given in writing to Lessor that the option is exercised at least six (6) months before this Lease or any renewal expires.

#### ARTICLE 5 - RENTAL PAYMENTS

- A. For the initial Lease period of ten years, the Lessee will pay the Lessor rent at the base annual rate of \$2,296,446.35 which computes to the rate of \$191,370.53 per calendar month (the "monthly rent"), commencing with the last day of the month in which the Commencement Date occurs. The Lessee will pay the Lessor rent at the following rates for renewal periods:

<u>OPTION</u>	<u>RENEWAL PERIOD</u>	<u>ANNUAL RENT</u>	<u>MONTHLY RENT</u>
1	Years 11-15	\$1,613,849.18	\$134,487.43
2	Years 16-20	\$ 242,837.44	\$ 20,236.45
3	Years 21-25	\$ 233,259.51	\$ 19,438.29

- B. In addition to the monthly rent, the Lessee will pay a maintenance payment equal to \$41,060.16 per month, commencing on the last day of the month in which the Commencement Date occurs.

The Lessee will pay the Lessor maintenance payments at the following rates for renewal periods:

<u>OPTION</u>	<u>RENEWAL PERIOD</u>	<u>ANNUAL MAINTENANCE</u>	<u>MONTHLY MAINTENANCE</u>
1	Years 11-15	\$566,467.00	\$47,205.58
2	Years 16-20	\$594,635.00	\$49,552.91
3	Years 21-25	\$649,937.00	\$54,161.41

- C. The Lessee covenants to pay the rent to the Lessor without deduction, offset prior notice or demand in lawful money of the United States in consecutive monthly installments at such place as the Lessor may designate, in arrears, beginning at the end of the first calendar month of the Lease term. This provision does not limit Lessee's right to offset or deduct amounts from the monthly maintenance payment where legally or contractually entitled to do so.
- D. If the Commencement Date is not on the first day of a month, the rental payment and maintenance payment for the month in which the Commencement Date occurs will be determined on a pro rata basis predicated on a 30-day month.
- E. If the Lessor fails to deliver the premises in a ready condition for the Lessee's occupancy by 18 months after date of award or at an earlier date agreed to by the parties, and unless such failure is caused by Lessee, the Lessor shall grant the Lessee a day for day rent credit for the delay. For example, if the Lessor delivers 10 days after the effective date, the Lessee shall not be charged rent for the first 10 days of occupancy after premises are delivered for occupancy.
- F. The Lessor shall be responsible for payment of taxes levied or assessed against the premises. Lessor shall pay the full amount of taxes during the first year of occupancy. The amount of tax in the first year in which the Commencement Date occurs is the "base" amount which will be used to

determine Lessee's obligations. The base amount must be the amount of taxes due after the work on the premises has been completed and they are fully assessed. Lessee shall pay as additional rent or receive as rental credit the amount of taxes assessed against the premises that exceeds or is less than the "base" amount. After receipt of the tax statement and prior to delinquency of taxes, Lessor will pay the taxes due and Lessee will reimburse Lessor for the increase or receive applicable credit for a decrease within thirty (30) days of receipt.

#### ARTICLE 6 - AVAILABILITY OF FUNDS

The Lessee's obligations under this Lease are contingent upon the availability of appropriated funds from the United States Congress from which payment for the Lease can be made. No legal liability on the part of the Lessee or the Government for payment of any money for future monthly rent shall arise unless and until the funds are made available to the Lessee from year to year for operation of the INEL. This clause does not apply to minor cutbacks or delays in EG&G Idaho, Inc. funding that may occur. It is only intended to apply if EG&G Idaho, Inc. loses all or a substantial portion of its government funding. A substantial portion of its government funding means greater than 50% of EG&G Idaho, Inc.'s funding for the previous funding year. Appropriated funds received by EG&G Idaho, Inc. will first be used to pay obligated costs, including this lease, before any new acquisitions will be made.

#### ARTICLE 7 - TERMINATION FOR CONVENIENCE

During the term of this Lease, the Lessee or the Government may, upon 60 days' advance notice, terminate this Lease for the convenience of the Government. If this occurs, Lessee agrees to pay Lessor termination costs in accordance with the schedule shown in Exhibit B.

#### ARTICLE 8 - PERFORMANCE OF TERMS

The failure of the Lessor, the Lessee, or any of their assignees or subtenants to insist upon performance of any of the terms, covenants or conditions of this Lease shall not be construed as a waiver or a relinquishment of the future performance of any terms, covenants or conditions, but the obligation of either party with respect to future performance will continue in full force and effect.

#### ARTICLE 9 - TAXES, UTILITIES AND BUILDING SERVICES

- A. If Lessor is required to pay personnel property taxes levied on trade fixtures, furnishings, equipment and other personnel property of Lessee, Lessee agrees that it's monthly rental payments will be increased to cover the taxes assessed because of Lessee's personal property.
- B. The Lessee will pay when due to the appropriate supplier, all communication expenses, utilities, including heating and ventilating, gas, telephone, electrical power, water, sewer, and garbage disposal arising from Lessee's use and occupancy of the premises.
- C. Day-to-day janitorial services and security services will be provided and paid for by Lessee.
- D. Grounds upkeep, including parking areas, will be provided and paid for by Lessee.
- E. Snow removal will be provided and paid for by Lessee.
- F. Operation and maintenance of the building (facilities) will be provided by Lessor (See Article 16) except to the extent that the maintenance is necessitated by the negligence or willful misconduct of Lessee or Lessee's Occupants, in which case Lessee will promptly reimburse Lessor on demand for all reasonable costs relating to such maintenance.

- G. The Lessee, at its discretion and cost, will either request the Lessor or obtain the services to clean windows, stripe parking lots, paint, replace carpet, erect or relocate partitions, receptacles, light fixtures, etc.

#### ARTICLE 10 - INSPECTION AND CONDITION REPORT

As of the date of occupancy, a joint inspection and condition report of the premises (containing an accurate and detailed description of the then present condition of the premises) will be made and approved by the parties. Upon termination of occupancy by the Lessee, a terminal survey of the then present condition of the premises shall be made by the parties, unless restoration has been waived by the Lessor.

#### ARTICLE 11 - WARRANTY AS TO MECHANICAL EQUIPMENT AND UTILITIES

The Lessor warrants that the mechanical equipment and utilities will be in good serviceable and proper operating condition on the Commencement Date, and agrees it will maintain the equipment and utilities and perform regular preventative maintenance on all equipment and devices as recommended by the original equipment manufacturer during the Lease term, and any extension periods of this Lease. The equipment and utilities include all plumbing, heating, cooling systems, and electrical and mechanical devices and fixtures.

#### ARTICLE 12 - ADMINISTRATION

- A. The Lessor agrees, unless Lessee is otherwise notified in writing, that Carl Cook and/or his duly authorized representative will have overall responsibility and authority under this Lease. Unless a change in assignment is made by the Lessor, the authorized representative will be available at reasonable times.
- B. It is agreed that, unless Lessor is otherwise notified in writing, Lessee's responsibilities under this Lease shall be administered by the

Manager, Operations Subcontracts of EG&G Idaho, Inc. and/or his duly authorized representative, who is W. O. Crownover, Subcontract Administrator. This representative or his substitute (of which the Lessor will be given written notice) will be available at reasonable times in connection with this Lease.

- C. Day to day operation and maintenance of the facilities will be coordinated with the Lessee's representative who is Craig L. Jacobson.

#### ARTICLE 13 - NOTICES

Any notice or demand to be given by the Lessor or the Lessee to the other shall be given in writing by personal service, telegram, express mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified, return receipt requested and addressed to each party as follows:

If to the Lessor:

Boyer Idaho Falls Associates, Ltd.  
127 South 500 East, Suite 310  
Salt Lake City, Utah 84102  
Attention: H. Roger Boyer

If to the Lessee:

EG&G Idaho, Inc.  
P.O. Box 1625  
Idaho Falls, Idaho 83415-2083  
Attention: Manager, Operations Subcontracts

Either the Lessor or the Lessee may change the address at which they desire to receive notices by written notice to the other party. Any notice is deemed to have been given, and is effective, on delivery to the applicable notice address for the party to whom the notice is directed.

Refusal to accept delivery of a notice or inability to deliver a notice because of an address change that was not properly communicated does not defeat or delay the effective date of a notice.

#### ARTICLE 14 - INSURANCE

It is agreed that the Lessor and Lessee shall respectively obtain whatever insurance that they may consider prudent and necessary to protect their respective interests and neither party is obligated to obtain insurance coverage for the other party's real or personal property. This provision will not be construed to waive any rights of subrogation or other legal rights of either party.

#### ARTICLE 15 - ASSIGNMENT AND/OR SUBLEASING

The Lessee has the right, at any time, to assign or sublet the premises or any portion to the Government or the Government's management and operating contract designee without the consent of the Lessor. Lessee can assign or sublet to any other designee with consent of Lessor. Upon assignment, the Government will guarantee payments hereunder. If assignment or subletting is for only part of the premises, the rental will be proportionately divided between the Lessee and any successor. Responsibility for payment of the rent shall not be divided between more than two (2) parties. Any assignment or sublease will be conditioned upon the use of the leased premises being compatible with the function and purposes of the entire facility.

The Lessee will provide to Lessor a copy any assignment assumption agreement entered with a third party. Any agreement will state that it is subject the provisions of this Lease.

#### ARTICLE 16 - MAINTENANCE OF PREMISES

The Lessor will maintain the premises, including the building, all building equipment, fixtures and appurtenances furnished by the Lessor under this Lease in good repair and tenantable condition, except for damage arising from the negligence of the Lessee's agents or employees. The Lessor may, at reasonable times, and with the approval of the authorized Lessee representative in charge, enter and inspect the premise and make any necessary repairs. The Lessee shall be responsible for damage caused by the negligence or misuse of the premises by the Lessee, its employees, guests and invitees. The Lessor will employ a full time qualified maintenance engineer, to be approved by the Lessee, with full authority to cause the necessary repairs to be made promptly. If the Lessor's maintenance engineer does not respond (respond means begin necessary action to repair the malfunction) within one (1) hour after being notified of equipment malfunction, Lessee will cause the necessary repairs to be made and the cost of the repairs will be deducted from the monthly maintenance payment(s). Operation and maintenance activities will be conducted to minimize impact on the Lessee e.g. preventative maintenance on elevators will be done on the off shift.

#### ARTICLE 17 - DESTRUCTION OF PREMISES

- A. In the event of a partial destruction of the premises during the Lease term, or any option or extension, from any cause, the Lessor will repair and restore the premises to their condition prior to destruction, provided that repairs can be made within sixty (60) days from the date of partial destruction. Partial destruction will not annul or void this Lease, but if the destruction was not caused by the negligence or willful misconduct of Lessee or Lessee's Occupants, Lessee will be entitled to a proportionate reduction of the monthly rent from the date of partial destruction and continuing until repairs are completed. The proportionate reduction is based on the extent that the repair work and destruction

interferes with and diminishes Lessee's business operations in the premises.

- B. In the event of partial destruction to such extent that the Lessor cannot, with normal effort, complete the necessary repairs to restore the premises within sixty (60) days, the Lessor will, within fifteen (15) days after partial destruction of the premises, provide a repair plan and schedule for Lessee's approval. The parties will agree to a reasonable time for repairs to be completed. Should the parties fail to agree on an acceptable time to complete repairs, the failure to agree shall constitute a "dispute" within the "Disputes" article of this Lease.
- C. A total destruction of the building will terminate this Lease by Lessor.
- D. If the premises are partially damaged as a result of a risk not covered by Lessor's insurance or are damaged during the last twelve (12) months of the Lease term, the Lessor may either elect to repair the damage or cancel this Lease by notice of cancellation within thirty (30) days after such event. This option is not applicable to the last twelve (12) months of any option period if one or more of Lessee's options are still available under this Lease. If the Lease is not terminated and Lessor fully repairs and restores the premises, Lessee will restore its property to the condition appropriate to Lessee's conduct of business at that time.

#### ARTICLE 18 - RELEASES BY LESSOR

Upon completion of the construction work, prior to occupancy and upon settlement of all outstanding claims that may have arisen from the construction process, the Lessor shall execute a release of all claims and forever discharge the United States of America, EG&G Idaho, Inc., their officers, agents, and employees from all actions, liabilities, obligations, and claims arising out of or in connection with the construction of the premises by the Lessor or the Lessor's contractors.

#### ARTICLE 19 - ALTERATIONS

- A. The Lessee has the right during the Lease term or any option or extension to make alterations or to attach fixtures and erect signs in or upon the premises. The fixtures, alterations and/or signs placed in, upon or attached to the premises are and remain the property of the Lessee or the Government and may be removed by the Lessee prior to or upon the expiration of this Lease. At the option of the Lessee, Lessee's improvements may be left on the premises upon termination or expiration of the term or any option of this Lease. If left after Lessee vacates the premises, the improvements become the property of the Lessor. If the improvements are removed by the Lessee, the Lessee agrees to restore the premises to their condition prior to installation of Lessee's property, reasonable wear and tear excepted. Plans for structural change will be submitted to the Lessor for approval and approval will not be unreasonably withheld.
- B. Title to property of the United States Government will not be affected by the incorporation of the property or its attachment to any property not owned by the Government. Government property will not become a fixture or lose its identity as personalty because of affixation to realty. Any damage to the premises caused by the removal of Government property will be repaired and restored by Lessee to its condition prior to attachment of government property, less normal wear and tear.
- C. If major capital alterations or modifications are desired and mutually agreed upon the Lessor will provide them and a new rental rate will be negotiated to cover the cost of installation. Any real estate taxes or assessments of any kind resulting from capital improvement of the premises by Lessor are the responsibility of Lessor according to the provisions of Articles 5 and 9.

#### ARTICLE 20 - CONVICT LABOR

Lessor agrees not to employ any person undergoing sentence of imprisonment in performance of work under this Lease except as provided by Public Law 89-176, September 10, 1965, (18 U.S.C. 4082(c) (2) and Executive Order No. 11755, December 29, 1973.

#### ARTICLE 21 - COVENANT AGAINST CONTINGENT FEES

The Lessor warrants that it has not employed any person or selling agency to solicit or secure this Lease for a commission, percentage, brokerage, or contingent fee except bona fide employees or established commercial or selling agencies maintained by Lessor for the purpose of securing business. For breach or violation of this warranty, the Government has the right to annul this Lease without liability, or in its discretion to deduct from the rental price or consideration, or otherwise recover the full amount of any commission, percentage, brokerage, or contingent fee. (Licensed real estate agents or brokers having listings on property for rent in accordance with general business practice, and who have not obtained licenses for the sole purpose of effecting this Lease, may be considered as bona fide employees or agencies within the exception contained in this article.)

#### ARTICLE 22 - OFFICIAL NOT TO BENEFIT

No member of Congress or resident Commissioner shall be admitted to any share or part of this Lease, or to any benefit that may arise. This provision does not apply to this Lease if made with a corporation for its general benefit.

#### ARTICLE 23 - ASSIGNMENT OF CLAIMS

Pursuant to the provisions of the Assignment of Claims Act of 1940, as amended (31 U.S. Code 3727, 41 U.S. Code 15), if this Lease provides for payments aggregating One Thousand Dollars (\$1,000.00) or more, claims for monies due or

to become due to the Lessor from the Government under this Lease may be assigned to the bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Any assignment or reassignment covers all amounts due and payable under this Lease. Assignment will not be made to more than one party, except for one party as agent or trustee for two (2) or more parties participating in the financing. Notwithstanding any provisions of this Lease, payments to an assignee of any monies due or to become due under this Lease will not be subject to reduction or set-off except as provided in the Act as amended.

#### ARTICLE 24 - EQUAL OPPORTUNITY

During the performance of this Lease, the Lessor agrees as follows:

- A. The Lessor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Lessor will take affirmative action to ensure that such applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Action will include, but are not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Lessor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Lessor setting forth the provisions of this "Equal Opportunity" article.
- B. The Lessor will, in all solicitations or advertisements for employees placed by or on its behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

- C. The Lessor will send to each labor union, or union representative, or workers with whom it has a collective bargaining agreement or other contract or understanding, a notice to be provided by Lessee advising the labor union or workers' representative of the Lessor's commitments under this "Equal Opportunity" article. Lessor will post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Lessor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The Lessor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and rules, regulations, and orders of the Secretary of Labor, and will permit access to its books, records, and accounts by DOE and the Secretary of Labor for investigation to ascertain compliance with such rules, regulations, and orders.
- F. If Lessor does not comply with the Equal Opportunity article of this Lease or with any rules, regulations, or orders, this Lease may be canceled, terminated, or suspended, in whole or in part, and the Lessor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and other sanctions may be imposed and remedies invoked as provided in those Orders, or by rule, regulation, order of the Secretary of Labor, or as otherwise provided by law.
- G. The Lessor will include the provisions of paragraphs A. through G. in every lower tier subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to the

above referenced Executive Orders so that those provisions will be binding upon each lower tier subcontractor or vendor. The Lessor will take any action with a lower tier subcontract or purchase order as DOE may direct to enforce such provisions, including sanctions for noncompliance. If, the Lessor becomes involved in, or is threatened with, litigation by a lower tier subcontractor or vendor as a result of such direction by DOE, Lessor may request the United States to enter into the litigation to protect the interests of the United States.

ARTICLE 25 - EXAMINATION OF RECORDS BY THE COMPTROLLER GENERAL

- A. The Lessor agrees that the Comptroller General of the United States or any duly authorized representatives shall, have access to and the right to examine any pertinent books, documents, papers, and records of the Lessor involving transactions related to this Lease. This right to examine ends upon the expiration of three years after final payment under the Lease or a lesser time specified in Appendix M of the Armed Services Procurement Regulations or Federal Procurement Regulations Parts 1-10.
- B. The Lessor agrees to include a provision in all its subcontracts stating that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, (until the expiration of three (3) years after final payment under the Lease or a lesser time specified in either Appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Parts 1-20), have access to and the right to examine any pertinent books, documents, papers, and records of the subcontractor involving transactions related to the Lease. The term "subcontract" excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts of purchase orders for public utility services at rates established for uniform applicability to the general public.

- C. The periods of access and examination described in A. and B. above, for records which relate to (1) appeals under the "Disputes" article of this Lease, (2) litigation or the settlement of claims arising out of the performance of this Lease, or (3) costs and expenses of this Lease as to which exception has been taken by the Controller General or any of his duly authorized representatives, will continue until all appeals litigation, claims or exceptions have been finally disposed of.
- D. Nothing in this Lease precludes an audit by the General Accounting Office of any transaction under this Lease.

#### ARTICLE 26 - LESSOR'S SUCCESSORS

The terms and provisions of this Lease bind the Lessor, the Lessee and their respective successors and assigns.

#### ARTICLE 27 - DISPUTES

- a. The parties agree that the appropriate forum for resolution of any dispute or claim pertaining to this Lease shall be a court of competent jurisdiction as follows:
1. Subject to paragraph (a) (2) of this clause, any litigation will be brought and prosecuted exclusively in Federal District Court; with venue in the United States District Court for the District of Idaho in Pocatello, Idaho.
  2. If requirements for jurisdiction in any Federal District Court are not present, such litigation will be brought in the District Court of the Seventh Judicial District of the State of Idaho, County of Bonneville, with venue in the District Court of the Seventh Judicial District for the State of Idaho in Idaho Falls, ID.

- b. All substantive issues of law will be determined by applying federal procurement laws. Nothing in this clause grants the Lessor any statutory rights or remedies not expressly set forth in this lease.
- c. There will be no interruption of this Lease during the pendency of any dispute that may arise between the parties or the Lessor and its subcontractors in support of this Lease.
- d. The Contract Disputes Act of 1978 (41 U.S.C. Sections 601-610) does not apply to this Lease. This clause does not prevent Lessee, in its sole discretion, from sponsoring a claim of Lessor for resolution under the provisions of Lessee's prime contract with DOE. If Lessee sponsors a claim at the request of Lessor, Lessor is bound by the decision of the DOE contracting officer to the same extent and manner as Lessee.

#### ARTICLE 28 - DEFINITIONS

The terms used in this Lease are as follows:

- A. The term "Government" means the United States of America or any duly authorized representative, including the United States Department of Energy (DOE) and EG&G Idaho, Inc. ("the Lessee").
- B. The term "DOE" means the U. S. Department of Energy, Idaho Operations Office, or any duly authorized representative thereof, including EG&G Idaho, Inc. ("the Lessee"), and/or the Contracting Officer, except for the purpose of deciding an appeal under the article entitled, "Disputes".
- C. The term "Contracting Officer" means the Manager of DOE Idaho Operations Office or his duly authorized representative.
- D. The terms "Subcontract(s)," "Subcontractor(s)" and "Lower-Tier Subcontractor(s) or Subcontractor(s)," as appropriate, include this Lease

agreement with the Lessor, and/or agreement(s) entered into by any party(ies) with the Lessor or any lower-tier subcontractor to furnish supplies or services required for performance of this Lease.

- E. The term "Commencement Date" means 18 months after date of award or as negotiated for early occupancy upon completion of construction. If the Lessor's construction obligations have not been fulfilled on or before such date, the "Commencement Date" will be the date that Lessor's obligations are fulfilled and the building is ready for occupancy, subject only to the completion of the "punch list" items prepared by representatives of the Lessee and Lessor that do not materially interfere with the Lessee's use and enjoyment of the premises.
- F. The term "Occupants" mean, collectively, any assignee, subtenant, employee, agent, licensee or invitee of the Lessee.
- G. The term "building" means the building to be constructed by the Lessor pursuant to the attached Exhibit A.

#### ARTICLE 29 - ARTICLES INCORPORATED BY REFERENCE

The following Federal Acquisition Regulation (FAR) clauses and any applicable Department of Energy Acquisition Regulation (DEAR) clauses are incorporated by reference.

1. Clean Air and Water, FAR 52.223-12 (\$100,000)
2. Affirmative Action for Handicapped Workers, FAR 52.222-36
3. Affirmative Action for Special Disabled and Vietnam Era Veterans FAR 52.222-35 (\$10,000)

4. Limitation on Payments to Influence Certain Federal Transactions, FAR  
52.203-12

ARTICLE 30 - HAZARDOUS SUBSTANCES CERTIFICATION

The Lessor warrants and represents that to the Lessor's knowledge, any use, storage, treatment, or transportation of hazardous substances that has occurred in or on the premises prior to the date of this Lease has been in compliance with all applicable federal, state, and local laws, regulations, and ordinances. To the Lessor's knowledge, no release, leak, discharge, spill, disposal, or emission of hazardous substances has occurred in, on, or under the premises, and the premises are free of hazardous substances as of the date of this Lease.

The Lessor further agrees to indemnify and hold harmless EG&G Idaho, DOE and the Government from all claims, damages, fines, judgments, penalties, costs, liabilities, or losses (including, without limitation, all sums paid for settlement of claims, attorneys' fees, consultant, and expert fees) arising during or after the Lease related to the presence or suspected presence of hazardous substances placed or stored in or on the premises by Lessor. Indemnification does not apply to the hazardous substances present solely as a result of negligence, willful misconduct, or other acts of EG&G Idaho, its agents, employees, contractors, or invitees. This indemnification includes but is not limited to all costs incurred due to any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. This indemnification also includes all costs due to hazardous substances that flow, diffuse, migrate, or percolate into, onto, or under the premises after the Lease term commences.

ARTICLE 31 - CONDEMNATION

As used in this Article the term "condemnation proceedings" means any actions or proceedings where any interest in the premises is taken for public or quasi-public purpose by lawful authority through eminent domain or by purchase. If the

entire premises are taken by condemnation proceedings, this Lease automatically terminates as of the date of the taking. The phrase "as of the date of the taking" means the date of taking actual physical possession by the condemning authority or by an earlier date established by the condemning authority. The Lessor or the Lessee may terminate this Lease if more than twenty-five percent (25%) of the floor area of the building is taken, and the taking substantially interferes with Lessee's ability to operate or use the premises for its intended purposes. Termination must be via written notice no later than thirty (30) days after the taking and is effective as of the date of taking. If termination does not occur under these provisions, the Lease remains in effect. If a portion of the premises is taken and this Lease is not terminated, the monthly rent will be reduced in the proportion that the floor area taken bears to the total floor area of the premises immediately prior to the taking. All damages or compensation awarded for a partial or total taking will be distributed on a pro rata basis according to each parties' losses if a single award is given. Each party is entitled to exclusive ownership of any award if separate awards are given and Lessee's loss of business and property damages or losses are fully compensated by Lessee's separate award. Regardless of the form of award, Lessee is entitled to sums compensating it for its loss or damage to trade fixtures, loss of business, and any other property. The parties have no claim against the other for the occurrence of any condemnation proceedings, the termination of the Lease, or for a reduction in the premises as a result of any condemnation proceedings.

#### ARTICLE 32 - LESSOR'S FINANCING

This Lease will be subordinate to any existing or future first mortgage, first deed of trust, ground lease, declaration of covenants, conditions, easements and restrictions and all renewals, modifications, amendments, consolidations, replacements and extensions. No documentation other than this Lease is required to evidence such subordination. If the holder of any mortgage or deed of trust elects to have this Lease superior to the lien of its mortgage or deed of trust and gives written notice of its election to the Lessee, this Lease becomes prior to such mortgage or deed of trust. The Lessee will execute required documents

to confirm subordination or priority within fifteen (15) days after request by Lessor. If requested by Lessor, the Lessee will join with Lessor in amending this Lease to meet the requirements of any lender that is considering making or that has made a loan secured by all or any portion of the premises if it will not materially affect Lessee's interests under this Lease. Any sale, assignment or transfer of Lessor's interest in this Lease or the premises, including disposition resulting from the Lessor's default under a debt obligation, will be subject to this Lease and the Lessee will attorn to the Lessor's successors and assigns and recognize them as the Lessor under this Lease regardless of the absence of privity of contract.

#### ARTICLE 33 - DEFAULT

- A. The occurrence of any of the following events constitutes a default by the Lessee: (a) Lessee fails to timely pay any installment of monthly rent or any other sum due under this Lease within fifteen (15) days after written notice of any past due amounts is given to Lessee; (b) Lessee fails to timely perform any other term, covenant or condition required under this Lease within fifteen (15) days after written notice is given of such failure. If more than fifteen (15) days is reasonably required to cure any failure, Lessee will not be in default if the cure is commenced or within the fifteen (15) day period and diligently prosecuted to completion; (c) Lessee files a petition in bankruptcy, or for reorganization, or appointment of a receiver or trustee, becomes insolvent, petitions for or enters into an arrangement for the benefit of creditors or causes this Lease to become subject to a writ of execution; or (d) Lessee vacates or abandons the premises.
- B. Upon default by the Lessee, Lessor may at any time, without waiving or limiting any other right or remedy available; (a) perform in the Lessee's stead any obligation that the Lessee has failed to perform, and the Lessor shall be reimbursed promptly for reasonable costs incurred by the Lessor; (b) terminate Lessee's rights under this Lease by written notice; (c)

reenter and take possession of the premises by any lawful means (with or without terminating this Lease); or (d) pursue any other remedy allowed by law.

C. If Lessee fails to make timely payments under this Lease, then Lessee shall pay to Lessor additional rent, the lesser of:

1. The interest expense incurred by Lessor as a direct result of Lessee's failure to make timely payments; or
2. Two percent (2%) above the prime interest rate of First Interstate Bank (in effect at the time Lessee fails to make a timely payment), prorated on a monthly basis and multiplied by the overdue payment amount(s).

D. Lessor will not be in default under this Lease unless Lessor, or the holder of any mortgage or deed of trust covering the premises whose name and address have been furnished to the Lessee in writing, fails to perform an obligation required of the Lessor under this Lease within thirty (30) days after written notice by registered mail from Lessee to Lessor and a copy to such holder, specifying the obligation that the Lessor has failed to perform. If more than thirty (30) days are reasonably required for performance or cure, Lessor shall not be in default if it or such holder commences performance within thirty (30) days after written notice. If Lessee's quiet enjoyment of a substantial portion of the premises is materially impaired by the default, the opportunity to cure cannot exceed one hundred twenty (120) days, but a lender may have additional time (if reasonably required to obtain control of the premises through foreclosure, receivership or similar proceedings) and the lender diligently prosecutes to completion of cure.

#### ARTICLE 34 - EXPIRATION OR TERMINATION

Upon expiration or termination of the Lease, the Lessee will, at it's cost, (a) promptly and peaceably surrender the premises to the Lessor in good order and condition; (b) repair any damage to the premises caused by or in connection with the removal by Lessee of any property from the premises; (c) repair, patch and paint in a good and workmanlike manner all holes and other marks in the floors, walls and ceilings of the premises; and (d) deliver all keys to the premises to Lessor. All personal property, trade fixtures and other property of the Lessee not removed from the premises within a reasonable time after abandonment of the premises, or expiration or termination of the Lease will be deemed to have been abandoned and may be appropriated, sold, stored, destroyed or otherwise disposed of by the Lessor without notice, and without any obligation to account to Lessee or any other person.

#### ARTICLE 35 - ESTOPPEL CERTIFICATE

The Lessee will, within ten (10) days after receipt of the Lessor's written request, execute and deliver to Lessor an estoppel certificate as per Exhibit C in favor of Lessor and other persons that Lessor requests, setting forth the following: (a) ratification of this Lease; (b) Commencement and expiration dates of this Lease; (c) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writing as shall be stated); (d) that all conditions under this Lease to be performed by the Lessor have been satisfied, or, in the alternative, those claimed by the Lessee to be unsatisfied; (e) that no defenses or offsets exist against the enforcement of this Lease by the Lessor, or, in the alternative, those claimed by the Lessee; (f) the amount of advance rent, if any (or none if such is the case) paid by the Lessee; (g) the date to which rent has been paid; and (h) other information that Lessor may reasonably request. The Lessor's mortgage lenders and purchasers shall be entitled to rely on any estoppel certificate executed by Lessee.

ARTICLE 36 - FORCE MAJEURE

If either Lessor or Lessee is delayed, hindered or prevented from the performance of any act required under this Lease except payment of rent because of acts of God, failure of power, riots, civil commotion, insurrection, war, or other reason not the fault of the party delayed, hindered or prevented and beyond their control (financial inability excepted), performance of the action in question is excused for the period of delay and the period for performance of any act is be extended for a period equivalent to the period of such delay.

ARTICLE 37 - OCCURRENCE NOTIFICATION AND REPORTING BY LESSOR

Lessor personnel shall immediately (not to exceed one hour) notify the Lessee representative of any event or condition which comes to their attention. An event or condition is defined as follows:

Event. A real-time occurrence (e.g., pipe break, valve failure, loss of power, etc.)

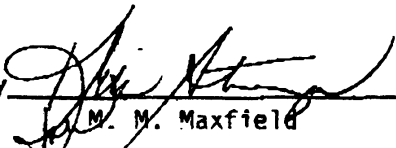
Condition. Any as-found state, whether or not resulting from an event, which may have adverse safety, health, quality assurance, security, operational or environmental implications. A condition is more programmatic in nature, for example, an error in analysis or calculation; an anomaly associated with design or performance; or, an item indicating a weakness in the management process.

If there is confusion as to whether an event or condition should be reported, the Lessor shall report in accordance with the requirements herein.

The Lessee Representative for the subject Subcontract is Craig L. Jacobson.

Lessee

EG&G IDAHO, INC.

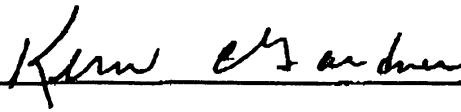
By   
M. M. Maxfield  
Title Manager, Administration

Date July 31, 1991

WOC:sw

Lessor

BOYER IDAHO FALLS ASSOCIATES, LTD.,  
by its general partner:  
THE BOYER COMPANY

By   
Title President

Date July 31, 1991